

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Steve Mitchell

Appl. No.: 10/685,011

Confirm. No.: 4285

Filed: October 14, 2003

Title: ARTIFICIAL VERTEBRAL DISK

REPLACEMENT IMPLANT WITH A SPACER

PATENT APPLICATION

Art Unit: 3732

Examiner: David A. Bonderer

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to **Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450**, on February 8, 2005.

(Attorney Signature)

Suvashis Bhattacharya, Reg. No. 46,554

Signature Date: February 8, 2005

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made, that the material is considered prior art, or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

Enclosed with this statement are the following:

- ✓ Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- ✓ The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at pac/dapp/opla/preognotice/idswouscopies.htm, copies of cited U.S. patents and publications are not enclosed. Copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR §1.98(a)(2), as still required.
- The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at pac/dapp/opla/preognotice/idswouscopies.htm,

copies of cited U.S. patents and publications are not enclosed. Additionally, copies of cited foreign patent documents and non-patent literature, items marked with an asterisk(*), are enclosed in accordance with 37 CFR §1.98(a)(2), as still required. The non-asterisked items were previously submitted in an Information Disclosure Statement by applicant in a parent application (see legend at end of Form PTO-1449), from which benefit under 35 USC §120 is claimed, which Information Disclosure Statement complies with the September 8, 2000 or subsequent revision of 37 CFR §1.98(a-c), as allowed under 37 CFR §1.98(d)(1).

- The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at pac/dapp/opla/preognotice/idswouscopies.htm, copies of cited U.S. patents and publications are not enclosed. Additionally, all cited foreign patent documents and non-patent literature are not enclosed because they were previously submitted in an Information Disclosure Statement by applicant in a parent application (see legend at end of Form PTO-1449), from which benefit under 35 USC §120 is claimed, which Information Disclosure Statement complies with the September 8, 2000 or subsequent revision of 37 CFR §1.98(a-c), as allowed under 37 CFR §1.98(d)(1).
- The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 CFR §1.98 is enclosed.
- The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 CFR §1.98 is enclosed, marked by an asterisk (*). The items not asterisked were previously submitted by applicant in a parent application (see Legend at end of Form PTO-1449), from which benefit under 35 USC §120 is claimed, with an Information Disclosure Statement submitted in the parent application which complies with the September 8, 2000 or subsequent revision of 37 CFR §1.98(a-c), as allowed under 37 CFR §1.98(d)(1).
- ✓ — If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 CFR §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 CFR §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).
- ***PTA Statement under 37 C.F.R. §1.704(d).*** Each item of information contained in the *Information Disclosure Statement* was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the *Information Disclosure Statement*.

This statement should be considered because:

✓ **37 C.F.R. §1.97(b).** This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);

-- OR --

- (2) It is being filed within 3 months of entry of a national stage;
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

— **37 C.F.R. §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.
-- AND (check at least one of the following) --
 - (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).
-- OR --
 - (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— **37 C.F.R. §1.97(d).** Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the Issue Fee;
-- AND --
- (2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);
-- AND --
- (3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

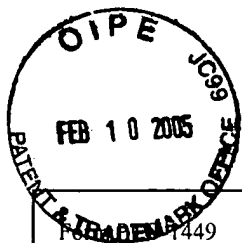
✓ **Fee Authorization.** The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

Date: 2/8/05

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	Attorney Docket Number KLYCD-05010US1	Application Number 10/685,011
		First Named Inventor Steve Mitchell	
		Filing Date 10/14/2003	Art Unit 3732

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Examiner Initial		Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	1.	2,456,806	Dec 21, 1948	E. B. Wolffe			
	2.	4,369,769	Jan 25, 1983	Edwards			
	3.	4,401,112	Aug 30, 1983	Rezaian			
	4.	4,479,491	Oct 30, 1984	Martin			
	5.	4,501,269	Feb 26, 1984	Bagby			
	6.	4,553,273	Nov 19, 1984	Wu			
	7.	4,554,914	Nov 26, 1985	Kapp et al			
	8.	4,599,084	Jul 8, 1986	Nashef			
	9.	4,599,086	Jul 8, 1986	Doty			
	10.	4,636,217	Jan 13, 1987	Ogilvie			
	11.	4,657,550	Apr 14, 1987	Daher			
	12.	4,685,447	Aug 11, 1987	Iversen et al			
	13.	4,696,290	Sep 29, 1987	Steffee			
	14.	4,714,469	Dec 22, 1987	Kenna			
	15.	4,743,256	May 10, 1988	Brantigan			
	16.	4,790,303	Dec 13, 1988	Steffee			
	17.	4,834,757	May 30, 1989	Brantigan			
	18.	4,904,261	Feb 27, 1990	Dove et al.			
	19.	4,932,975	Jun 12, 1990	Main et al.			
	20.	4,936,848	Jun 26, 1990	Bagby			

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	21.	4,961,740	Oct 9, 1990	Ray et al.			
	22.	4,969,888	Nov 13, 1990	Scholten et al.			
	23.	5,015,247	May 14, 1991	Michelson			
	24.	5,026,373	Jun 25, 1991	Ray et al.			
	25.	5,055,104	Oct 8, 1991	Ray			
	26.	5,059,193	Oct 22, 1991	Kuslich			
	27.	5,059,194	Oct 22, 1991	Michelson			
	28.	5,108,442	Apr 28, 1992	Smith			
	29.	5,167,662	Dec 1, 1992	Hayes et al.			
	30.	5,180,381	Jan 19, 1993	Aust et al.			
	31.	5,192,327	Mar 9, 1993	Brantigan			
	32.	5,263,953	Nov 23, 1993	Bagby			
	33.	5,290,312	Mar 1, 1994	Kojimoto et al.			
	34.	5,313,962	May 24, 1994	Obenchain			
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	36.	5,336,223	Aug 9, 1994	Rogers			
	37.	5,350,397	Sep 27, 1994	Palermo et al.			
	38.	5,354,302	Oct 11, 1994	Ko			
	39.	5,360,430	Nov 1, 1994	Lin			
	40.	5,366,508	Nov 22, 1994	Brekke			
	41.	5,370,693	Dec 6, 1994	Kelman et al.			
	42.	5,375,823	Dec 27, 1994	Navas			
	43.	5,383,884	Jan 24, 1995	Summers			
	44.	5,395,317	Mar 7, 1995	Kambin			
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	46.	5,397,364	Mar 14, 1995	Kozak et al.			
	47.	5,415,704	May 16, 1995	Davidson			
	48.	5,423,816	Jun 13, 1993	Lin			
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	50.	5,425,772	Jun 20, 1995	Brantigan			
	51.	5,425,777	Jun 20, 1995	Sarkisian et al.			
	52.	5,431,658	Jul 11, 1995	Moskovich			
	53.	5,439,464	Aug 8, 1995	Shapiro			
	54.	5,443,514	Aug 22, 1995	Steffee			
	55.	5,443,515	Aug 22, 1995	Cohen et al.			
	56.	5,445,639	Aug 29, 1995	Kuslich et al.			
	57.	5,456,722	Oct 10, 1995	McLeod et al.			
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	60.	5,480,401	Jan 2, 1996	Navas			
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	63.	5,489,307	Feb 6, 1996	Kuslich et al.			
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	65.	5,505,732	Apr 9, 1996	Michelson			
	66.	5,522,899	Jun 4, 1996	Michelson			
	67.	5,531,793	Jul 2, 1996	Kelman et al.			
	68.	5,534,023	Jul 9, 1996	Henley			
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	74.	5,571,192	Nov 5, 1996	Schönhöffer			
	75.	5,591,235	Jan 7, 1997	Kuslich			
	76.	5,593,409	Jan 14, 1997	Michelson			
	77.	5,599,279	Feb 4, 1997	Slotman et al.			
	78.	5,601,556	Feb 11, 1997	Pisharodi			
	79.	5,609,635	Mar 11, 1997	Michelson			
	80.	5,609,636	Mar 11, 1997	Kohrs et al.			
	81.	5,620,458	Apr 15, 1997	Green et al.			
	82.	5,645,592	Jul 8, 1997	Nicolais et al.			
	83.	5,645,598	Jul 8, 1997	Brosnahan, III			
	84.	5,653,761	Aug 5, 1997	Pisharodi			
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	86.	5,658,335	Aug 19, 1997	Allen			
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	88.	5,658,337	Aug 19, 1997	Kohrs et al.			
	89.	5,669,909	Sep 23, 1997	Zdeblick et al.			
	90.	5,683,463	Nov 4, 1997	Godefroy et al.			
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	92.	5,693,100	Dec 2, 1997	Pisharodi			
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	98.	5,716,415	Feb 10, 1998	Steffee			
	99.	5,741,253	Apr 21, 1998	Michelson			
	100.	5,755,732	May 26, 1998	Green et al.			
	101.	5,766,252	Jun 16, 1998	Henry et al.			
	102.	5,772,661	Jun 30, 1998	Michelson			
	103.	5,776,196	Jul 7, 1998	Matsuzaki et al.			
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	105.	5,782,830	Jul 21, 1998	Farris			
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	107.	5,797,909	Aug 25, 1998	Michelson			
	108.	5,800,438	Sep 1, 1998	Tuke et al.			
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	110.	5,836,948	Nov 17, 1998	Zucherman et al.			
	111.	5,860,973	Jan 19, 1999	Michelson			
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	113.	5,876,404	Mar 2, 1999	Zucherman et al.			
	114.	5,885,292	Mar 23, 1999	Moskovitz et al.			
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	125.	5,961,554	Oct 5, 1999	Jamson et al.			
	126.	5,980,572	Nov 9, 1999	Kim et al.			
	127.	5,984,967	Nov 16, 1999	Zdeblick et al.			
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	133.	6,039,761	Mar 21, 2000	Li et al.			
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	138.	6,074,390	Jun 13, 2000	Zucherman et al			
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	147.	6,102,950	Aug 15, 2000	Vaccaro			
	148.	6,111,164	Aug 29, 2000	Rainey et al.			
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	151.	6,120,502	Sep 19, 2000	Michelson			
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	153.	6,123,705	Sep 26, 2000	Michelson			
	154.	6,126,689	Oct 3, 2000	Brett			
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	157.	6,132,430	Oct 17, 2000	Wagner			
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	167.	6,183,471 B1	Feb 6, 2001	Zucherman et al.			
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	172.	6,224,595 B1	May 1, 2001	Michelson			
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	178.	6,238,397 B1	May 29, 2001	Zucherman et al.			
	179.	6,241,769 B1	Jun 5, 2001	Nicholson et al.			
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	184.	6,261,296	Jul 17, 2001	Aebi et al.			
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	203.	6,342,074 B1	Jan 29, 2002	Simpson			
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*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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